IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2318 OF 2004

IN

SUIT NO.2241 OF 2004

Jyotindra Shah, Proprietor of M/s.M.J.Enterprises. ... Plaintiff.

vs.

Jayesh B. Nagda. ... Defendant.

Ms.Rekha Shinde, for Plaintiff.

Mr.V.R.Dhond with Sanjay Kadam i/b. Kadam & Co.,for Defendant.

CORAM: D.K.DESHMUKH,J.

DATED: 17th June,2005

P.C.:-

1. This is a Notice of Motion taken out by the plaintiff for order of attachment before judgment of the property of the defendant. Perusal of the affidavit in support of notice of motion shows that though the plaintiff has stated that the defendant has vacated the residential premises which were owned by him and also the business

premises which were also owned by him and moved to rented premises, there is no reliable material produced on record to show that the defendant intends to dispose of the property. There is also no averments made in the affidavit that defendant is taking steps to dispose of the property in order to defeat the execution of decree that may be passed against him in the suit. In the absence of necessary averments and material produced before the Court showing that the defendant is likely to dispose of the property in order to defeat the execution of decree that may be passed against him, the order of attachment before judgment which has drastic consequences, cannot be made. Hence, the notice of motion is disposed of.